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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,987	09/04/2003	Thomas A. Benoit	14215	8937
7	7590 06/15/2004		EXAM	INER
PAUL F. DONOVAN			RAMIREZ, RAMON O	
ILLINOIS TOOL WORKS INC. 3600 WEST LAKE AVENUE			ART UNIT	PAPER NUMBER
GLENVIEW,	GLENVIEW, IL 60025			
			DATE MAILED: 06/15/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
7	10/655,987	BENOIT ET AL.				
↑ Office Action Summary	Examin r	Art Unit				
	RAMON O. RAMIREZ	3632				
The MAILING DATE of this communication appears on the cover sh et with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). Status						
1) Responsive to communication(s) filed on 6.3						
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
closed in accordance with the practice under	Ex parte Quayle, 1955 C.D. 11, 40	0.G. 213.				
Disposition of Claims						
4) ☐ Claim(s) 1-17 is/are pending in the application 4a) Of the above claim(s) is/are withdra 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) 1-17 is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and/or	wn from consideration.	,				
Application Papers						
9)☑ The specification is objected to by the Examina 10)☑ The drawing(s) filed on 04 September 2003 is an Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct to be a considered to by the Examination is objected to be a considered to be added to	/are: a)⊠ accepted or b)⊡ object drawing(s) be held in abeyance. Sec ction is required if the drawing(s) is ob	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).				
Priority under 35 U.S.C. § 119						
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 						
Attachment(s)						
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:					

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Detailed Action

This is the first Office Action corresponding to original filing. Claims 1-17 are active.

Drawings

The drawings have been accepted by the examiner.

Claim Objections

Claim 5 is objected to because of the following informalities: "relief" should be replaced by - - relief area - -, since "relief" is not an element per se. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claim 17 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention to.

In claim 17 no teachings are found in the disclosure for the cut out portion including a slot as recited in the claim.

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Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claims 1 and 12 are not clear as to bracket being a positive element of the combination or not. The preamble of the claims refers to the bracket as a subcombination (note clause "for"); however later on in the claims the bracket is recited in combination (note that the slot is recited in the bracket in claim 12, and as a possibility in claim 1). The specification recites the slot mainly in the bracket. For the purpose of this action, the claims are considered to be subcombination claims.



Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Anscher (Pat No 4,447,934).

The patent to Anscher shows a clip device comprising a plastic annular body defining an opening, including a flexible arm having a tooth (15), a mating structure (18) at the other end for receiving the tooth (15), and ribs (14) at an external surface of the body. As to

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claim 4, since the diameter of the opening is adjustable, it meets the language of the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Anscher.

The shape of the body is considered to be an obvious matter of engineering choice having no patentable significance.

Allowable Subject Matter

Claims 5-8 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 12-16 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

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The following is a statement of reasons for the indication of allowable subject matter: none of the art of record discloses a clip for securing a tube to a bracket comprising a relief area as recited in claims 5 and 12.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Morehouse (2,415,517), Cattani (4,802,646), Giangrasso (6,126,119), Phillips (6,631,876), Gretz (6,655,644) and the German Patent to Schmitten all show clips having a body defining an opening with a flexible arm having a tooth at one end and a mating surface at the other end.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner **Ramírez** at telephone number (703) 308-0748. The examiner can be normally reached on Monday-Thursday and alternate Fridays.

The fax numbers for this Group are (703) 872-9306 (official papers), and (703) 308-3519 (unofficial papers).

Any inquiry of general nature relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

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A shortened period for response to this Office Action expires THREE MONTHS from the mailing date of this action.

R.O.RAMIREZ June 9, 2004 RAMON O. RAMIREZ
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600
ART UNIT 3632